

(2) travel and entertainment expenses incurred by the athlete agent, including expenses for:

- (A) food and beverages;
 - (B) hospitality rooms;
 - (C) sporting events;
 - (D) theater and music events; and
 - (E) transportation, lodging, and admission relating to entertainment;
- (3) *any agent contract entered into by the athlete agent; and*
- (4) *any direct costs incurred by the athlete agent in recruiting or soliciting an athlete to enter into an agent contract.*

SECTION 12. Section 2051.402, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) By acting as an athlete agent in this state, a nonresident appoints the secretary of state as the nonresident's agent for service of process in a civil action in this state related to an act by the person as an athlete agent.

SECTION 13. Section 2051.551, Occupations Code, is amended to read as follows:

Sec. 2051.551. CIVIL SUIT. (a) An institution of higher education adversely affected by an athlete agent's or former athlete's violation of this chapter may file suit against the athlete agent or former athlete for damages.

(b) A cause of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former athlete.

(c) Any liability of the athlete agent or the former athlete under this section is several and not joint.

(d) This chapter does not restrict the rights, remedies, or defense of any person under any other law.

SECTION 14. (a) A registration under Chapter 2051, Occupations Code, in effect on the effective date of this Act continues in effect under the former law until it expires or is revoked, and the former law is continued in effect for that purpose.

(b) A person who submits an application for registration as an athlete agent under Chapter 2051, Occupations Code, that is pending on the effective date of this Act must resubmit the application under Chapter 2051, Occupations Code, as amended by this Act, after the effective date for the application to be effective.

(c) A contract entered into under Chapter 2051, Occupations Code, as it existed immediately before the effective date of this Act, is covered by the former law, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2003.

Passed the Senate on May 15, 2003: Yeas 31, Nays 0; passed the House on May 28, 2003, by a non-record vote.

Approved June 20, 2003.

Effective September 1, 2003.

CHAPTER 822

S.B. No. 319

AN ACT

relating to the death of or injury to an unborn child; providing penalties.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. CIVIL REMEDIES

SECTION 1.01. Section 71.001, Civil Practice and Remedies Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) “Death” includes, for an individual who is an unborn child, the failure to be born alive.

(4) “Individual” includes an unborn child at every stage of gestation from fertilization until birth.

SECTION 1.02. Section 71.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 71.003. APPLICATION; CERTAIN CONDUCT EXCEPTED. (a) This subchapter applies only if the individual injured would have been entitled to bring an action for the injury if the individual ~~had~~ had lived or had been born alive.

(b) This subchapter applies whether the injury occurs inside or outside this state.

(c) This subchapter does not apply to a claim for the death of an individual who is an unborn child that is brought against:

(1) the mother of the unborn child;

(2) a physician or other licensed health care provider, if the death is the intended result of a lawful medical procedure performed by the physician or health care provider with the requisite consent;

(3) a person who dispenses or administers a drug in accordance with law, if the death is the result of the dispensation or administration of the drug; or

(4) a physician or other health care provider licensed in this state, if the death directly or indirectly is caused by, associated with, arises out of, or relates to a lawful medical or health care practice or procedure of the physician or the health care provider.

SECTION 1.03. Subchapter A, Chapter 71, Civil Practice and Remedies Code, is amended by adding Section 71.0055 to read as follows:

Sec. 71.0055. EVIDENCE OF PREGNANCY. In an action under this subchapter for the death of an individual who is an unborn child, the plaintiff shall provide medical or other evidence that the mother of the individual was pregnant at the time of the individual's death.

SECTION 1.04. The changes in law made by this article apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act and that law is continued in effect for that purpose.

ARTICLE 2. CRIMINAL PENALTIES

SECTION 2.01. Subsection (a), Section 1.07, Penal Code, is amended by amending Subdivision (26) and adding Subdivision (49) to read as follows:

(26) “Individual” means a human being who ~~has been born and~~ is alive, including an unborn child at every stage of gestation from fertilization until birth.

(49) “Death” includes, for an individual who is an unborn child, the failure to be born alive.

SECTION 2.02. Chapter 19, Penal Code, is amended by adding Section 19.06 to read as follows:

Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT. This chapter does not apply to the death of an unborn child if the conduct charged is:

(1) conduct committed by the mother of the unborn child;

(2) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent, if the death of the unborn child was the intended result of the procedure;

(3) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent as part of an assisted reproduction as defined by Section 160.102, Family Code; or

(4) the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.

SECTION 2.03. Section 20.01, Penal Code, is amended by adding Subdivisions (4) and (5) to read as follows:

(4) *"Person" means an individual, corporation, or association.*

(5) *Notwithstanding Section 1.07, "individual" means a human being who has been born and is alive.*

SECTION 2.04. Chapter 22, Penal Code, is amended by adding Section 22.12 to read as follows:

Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT. This chapter does not apply to conduct charged as having been committed against an individual who is an unborn child if the conduct is:

(1) committed by the mother of the unborn child;

(2) a lawful medical procedure performed by a physician or other health care provider with the requisite consent;

(3) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent as part of an assisted reproduction as defined by Section 160.102, Family Code; or

(4) the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.

SECTION 2.05. Chapter 49, Penal Code, is amended by adding Section 49.12 to read as follows:

Sec. 49.12. APPLICABILITY TO CERTAIN CONDUCT. Sections 49.07 and 49.08 do not apply to injury to or the death of an unborn child if the conduct charged is conduct committed by the mother of the unborn child.

SECTION 2.06. Chapter 38, Code of Criminal Procedure, is amended by adding Section 38.40 to read as follows:

Art. 38.40¹ Sec. 38.40. EVIDENCE OF PREGNANCY. (a) In a prosecution for the death of or injury to an individual who is an unborn child, the prosecution shall provide medical or other evidence that the mother of the individual was pregnant at the time of the alleged offense.

(b) For the purpose of this section, "individual" has the meaning assigned by Section 1.07, Penal Code.

SECTION 2.07. (a) The changes in law made by this article apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. This Act takes effect September 1, 2003.

Approved June 20, 2003.

Effective September 1, 2003.

CHAPTER 823

S.B. No. 325

AN ACT

relating to the implementation of a change in law imposing or changing the amount of certain court costs and fees.

¹ Art. 38.40 was enacted as a section and was editorially designated as Art. 38.40